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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,865	05/10/2001	Bradley M. Hiben	CM04756H	5153

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[REDACTED] EXAMINER

LEE, JOHN J

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2684

DATE MAILED: 05/08/2003 7

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/852,865	HIBEN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	JOHN J LEE	2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 24 February 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3,6</u> . | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

1. Applicant's arguments with respect to claims 1 – 22 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 – 22** are rejected under 35 U.S.C. 102(b) as being anticipated by Diachina et al. (US Patent number 6,041,047).

Regarding **claim 1**, Diachina discloses that a method comprising a receiving device performing the steps of:

receiving a transmitted signal comprising a plurality of sub-channels (Fig. 6, 8) (column 7, lines 59 – column 8, lines 14);

operating in a first decoding mode (Fig. 5) to decode one or more sub-channels (Fig. 5) of the plurality of sub-channels, thereby yielding control information (Fig. 5 and column 9, lines 17 – column 10, lines 67);

if the control information includes indicia of payload directed to the receiving device (Fig. 8, 9), operating in a second decoding mode to decode one or more additional sub-channels of the plurality of sub-channels, thereby yielding payload information

(Fig.11-14, column 21, lines 24 – column 23, lines 45, and column 15, lines 8 – column 16, lines 65).

Regarding **claim 2**, Diachina discloses that in the first decoding mode, the receiving device decodes payload sub-channels that include the control information (Fig. 5 and column 9, lines 17 – column 10, lines 67).

Regarding **claim 3**, Diachina discloses that in the first decoding mode, the receiving device decodes only designated control sub-channels (Fig. 5 and column 9, lines 17 – column 10, lines 67).

Regarding **claim 4**, Diachina discloses that in the second decoding mode, the receiving device decodes the control sub-channels and the one or more additional sub-channels (Fig.11-14, column 21, lines 24 – column 23, lines 45, and column 15, lines 8 – column 16, lines 65).

Regarding **claim 5**, Diachina discloses all the limitation, as discussed in claim 1. Furthermore, Diachina further discloses that sending control information (Fig. 8), from a sending device (base station in Fig. 4) to a receiving device (mobile station in Fig. 4), in one or more control sub-channels of the M sub-channels (Fig. 8, 13, 14) occupying a first portion of the bandwidth  $B_M$  (Fig. 8, 13, 14) (column 21, lines 24 – column 23, lines 45).

Regarding **claim 6**, Diachina discloses that the sending device is a base station and the receiving device is a radio communication unit (Fig. 4).

Regarding **claim 7**, Diachina discloses all the limitation, as discussed in claim 1.

Regarding **claim 8**, Diachina discloses that the step of decoding the control sub-channels comprises the receiving device decoding only the control sub-channels (Fig. 5 and column 9, lines 17 – column 10, lines 67).

Regarding **claim 9**, Diachina discloses all the limitation, as discussed in claims 1 and 5. Furthermore, Diachina further discloses that sending the payload information to the receiving device in one or more payload sub-channels of the M sub-channels occupying a second portion of the bandwidth  $B_M$  (Fig. 13, 14, column 27, lines 3 – column 28, lines 63, and column 21, lines 24 – column 23, lines 45).

Regarding **claim 10**, Diachina discloses all the limitation, as discussed in claims 1 and 9.

Regarding **claim 11**, Diachina discloses all the limitation, as discussed in claims 1 and 9. Furthermore, Kleider further discloses that the step of decoding the payload sub-channels comprises the receiving device decoding the full bandwidth  $B_M$  (column 11, lines 23 – column 12, lines 61).

Regarding **claim 12**, Diachina discloses all the limitation, as discussed in claims 1 and 9.

Regarding **claim 13**, Diachina discloses all the limitation, as discussed in claims 1 and 9. Furthermore, Diachina further discloses that determining, by the sending device, if the payload information can be communicated via the control sub-channels (column 7, lines 59 – column 8, lines 14).

Regarding **claim 14**, Diachina discloses all the limitation, as discussed in claim 1. Furthermore, Diachina further discloses that decoding, by the receiving device, the

control sub-channels to receive the payload information (Fig.11-14, column 21, lines 24 – column 23, lines 45, and column 15, lines 8 – column 16, lines 65).

Regarding **claim 15**, Diachina discloses all the limitation, as discussed in claims 1 and 8.

Regarding **claim 16**, Diachina discloses all the limitation, as discussed in claims 1 and 9.

Regarding **claim 17**, Diachina discloses all the limitation, as discussed in claims 1 and 10.

Regarding **claim 18**, Diachina discloses all the limitation, as discussed in claims 1 and 11.

Regarding **claim 19**, Diachina discloses all the limitation, as discussed in claims 1 and 12.

Regarding **claim 20**, Diachina discloses all the limitation, as discussed in claims 1 and 5. Furthermore, Diachina further discloses that an antenna for receiving a transmitted signal comprising M sub-channels (Fig. 4 and column 6, lines 53 – column 7, lines 40).

Regarding **claim 21**, Diachina discloses all the limitation, as discussed in claims 1 and 3.

Regarding **claim 22**, Diachina discloses all the limitation, as discussed in claims 1 and 4.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ma et al. (US Patent number 5,995,500) discloses Direct Communication Between Mobile Stations.

Raith et al. (US Patent number 6,028,854) discloses Radiocommunication Systems and Terminals with Increased Payload Bandwidth.

Bruhn (US Patent number 6,452,941) discloses Alternating Transmission of Codec Mode Information.

Honkasalo (US Patent number 6,510,148) discloses Selective Discontinuous Transmission for High Speed Data Services in CDMA Multi-Channel Configuration.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is (703) 306-5936. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's acting supervisor,

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**Nay Aung Maung**, can be reached on (703) 308-7745. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L.  
April 30, 2003  
  
John J Lee

*Nay Aung Maung*  
**NAY MAUNG**  
**PRIMARY EXAMINER**